

May 12, 2021

MEMO ENDORSED**Via ECF**

Hon. Valerie E. Caproni, United States District Judge
U.S. District Court -- Southern District of New York
40 Foley Square
New York, NY 10007

Re: *S.K.N. et al. v. NYC Dep't of Educ., et al.*, No. 20-cv-10562 (VEC)

Dear Judge Caproni:

I represent the Plaintiffs in the above-referenced case. Pursuant to Your Honor's Order, Docket Entry 19, pre-conference submissions are currently due May 13, 2021, in advance of our May 21, 2021 initial conference. Plaintiffs are respectfully requesting an extension of time for the submissions and a corresponding adjournment of the initial conference in this case for at least forty-five days. Defendants join in this request. Your Honor previously granted Defendants' prior two requests for an extension of time to answer the complaint, currently due May 18, 2021. Docket Entries 15, 16, 18, 19.

Plaintiffs S.K.N. and D.P. are the parents of S.N., a 10-year-old young student with autism and selective mutism. Plaintiffs' complaint against the New York City Department of Education ("DOE"), Chancellor Richard Carranza and the New York City Board of Education ("BOE") (collectively "Defendants" or "DOE") raises a number of individual and systemic claims under the Individuals with Disabilities Education Improvement Act ("IDEA"), 20 U.S.C. § 1400, et seq., the Due Process Clause of the 14th Amendment of the U.S. Constitution, 42 U.S.C. § 1983, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 ("Section 504"), the New York State Constitution, and New York State Education Law concerning Plaintiff S.N.'s education over several school years.¹ In particular, Plaintiffs appeal administrative decisions concerning S.N.'s special education for the 2019-2020 school year.

The parties have engaged in informal settlement discussions over the past few months. Plaintiffs provided Defendants with a settlement demand, have been awaiting an offer, and anticipate a response from Defendants shortly. The parties are optimistic that this case could be resolved through settlement, with sufficient time.

I apologize for filing this request less than forty-eight hours before the deadline. However, I contacted Defendants' assigned counsel William Gary Rives on Monday, May 10, 2021, to discuss the upcoming submissions and received an automatic response that he is out of the office until May 18, 2021. I then contacted his colleague, Martin Bowe, in Mr. Rives'

¹ Pursuant to Federal Rule of Civil Procedure 25(d), Chancellor Meisha Porter, in her official capacity, is substituted for Chancellor Richard Carranza, in his official capacity. Plaintiffs respectfully request the Court direct the Clerk to amend the docket accordingly.

absence, who was also out of the office on May 10th. Mr. Bowe could only say that Mr. Rives will be presenting a settlement offer shortly upon his return and that he joins our request for an adjournment of the initial conference and additional time for the corresponding submissions, and joins our apology for the lateness of this request.

As such, Plaintiffs respectfully request, and Defendants join in the request, an adjournment of the initial conference and pre-conference submissions and propose submitting a letter no later than June 11, 2021, updating the Court on the status of settlement. Thank you for Your Honor's attention to this matter.

Respectfully submitted,

Erin O'Connor

Erin O'Connor, Of Counsel
The Law Office of Elisa Hyman, P.C.
Counsel for Plaintiffs

cc: William Gary Rives, Martin Bowe, Corporation Counsel
Counsel for Defendants

Application GRANTED. The initial pretrial conference, currently scheduled for Friday, May 21, 2021 at 9:30 A.M., is adjourned to **Friday, July 9, 2021 at 10:30 A.M.** Pre-conference submissions are due no later than **Thursday, July 1, 2021**. For the conference dial in information and for a description of the pre-conference submissions, the parties should consult the notice of initial pretrial conference, Dkt. 10. The joint pre-conference submission must include an update on the status of settlement. No further adjournments of the initial pretrial conference will be granted.

Defendant's deadline to answer, move, or otherwise respond to the complaint remains **Tuesday, May 18, 2021**. See Dkt. 19. Defense counsel is welcome to request an adjournment of the deadline in light of the parties' settlement negotiations. All requests for adjournment must comply with the undersigned's Individual Practices in Civil Cases.

The Clerk of Court is respectfully directed to replace "Defendant Richard Carranza, in his official capacity" with "Defendant Meisha Porter, in her official capacity."

SO ORDERED.



Date: May 12, 2021

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE